

Chapter HFS 51

ADOPTION OF CHILDREN WITH SPECIAL NEEDS

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Note: Chapter HSS 51 was renumbered to chapter HFS 51 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, May, 1999, No. 521.

HFS 51.01 Authority and purpose. This chapter is promulgated under the authority of ss. 48.01 (1) (f), 48.48 (8) and 227.11 (2), Stats., to establish criteria and procedures for placement of special needs children in adoptive homes. The criteria and procedures are intended to ensure that every special needs child is placed in a suitable adoptive placement with the best interests of the child as the paramount concern, that the needs of the child as the primary client are met and that persons seeking to adopt special needs children are treated fairly.

History: Cr. Register, December, 1995, No. 480, eff. 1-1-96; am. Register, May, 1999, No. 521, eff. 6-1-99.

HFS 51.02 Applicability. This chapter applies to the department, to child-placing agencies providing adoption services under contract with the department, to county agencies providing adoption services under contract with the department and to all persons making inquiry or application to the department or to a child-placing agency or a county agency providing adoption services under contract with the department for adoption of special needs children, including minority children, except when procedures involving the federal Indian Child Welfare Act, 25 USC 1901 to 1963, apply. In this section, "child-placing agency" means a private child-placing agency licensed under ch. HFS 54 to accept guardianship of children and to place children under its guardianship for adoption, and "county agency" means a county social services department under s. 46.215 or 46.22, Stats., or a county human services department under s. 46.23, Stats.

History: Cr. Register, December, 1995, No. 480, eff. 1-1-96; am. Register, May, 1999, No. 521, eff. 6-1-99; **correction made under s. 13.93 (2m) (b) 7., Stats.**

HFS 51.03 Definitions. In this chapter:

- (1) "Administrator" means the administrator of the division.
- (2) "Adoption" means the method provided under ss. 48.81 to 48.975, Stats., to establish the legal relationship of parent and child between persons who are not related by birth, with the same mutual rights and obligations that exist between children and their birth parents.
- (3) "Adoption information exchange" means the department program under ss. HFS 50.07 to 50.10, intended to facilitate the adoption of special needs children by disseminating information about the children to adoption agencies and prospective adoptive families.
- (4) "Applicant" means a prospective adoptive family, whether a married couple or a single person, completing and signing a formal application for a home study by the department.
- (5) "Application date" is the date the department receives a complete, signed formal application for a home study from an applicant.
- (6) "Approved for placement" means the department has determined the applicant meets all eligibility criteria and is avail-

able for placement of a special needs child of the description recommended in the home study.

(7) "Bureau director" means the director of the division's bureau of programs and policies which operates the special needs adoption program.

(8) "Close the application process" means the department discontinues services to an applicant for the reasons given in s. HFS 51.07 (3).

(9) "Department" means the Wisconsin department of health and family services.

(10) "Division" means the department's division of children and family services.

(11) "Hold" means that action in the home study process is suspended until the problems or circumstances causing the suspension are resolved, but for no longer than 6 months.

(12) "Home study" means the evaluation of an applicant for purposes of adoption by assessing and documenting the applicant's potential to appropriately and safely care for a special needs child placed for adoption and includes the procedures in s. HFS 51.07 (1).

(13) "Home study application" means a department form used to request a home study and provided to inquirers who have been screened by the department and who meet current needs for adoptive family resources for placement of special needs children, to persons wanting to adopt a special needs child already placed in their home when the child is under guardianship of the department or to persons authorized for a home study under s. HFS 51.05 (4) (h) and (i).

(14) "Informational meeting" means a meeting conducted by the department for the purpose of describing special needs children currently needing adoptive families and to provide information about the procedure for adopting through the department and information about adoption resources such as adoption assistance.

(15) "Inquiry" means a contact made with the department to indicate an interest in adopting a special needs child and requesting information about the program and instructions regarding the screening process.

(16) "Region" means one of 7 county groupings designated as principal field service areas by the division for purposes of program administration.

(17) "Screening" means a department procedure to determine which inquiring families appear best able to meet current needs for adoptive homes for special needs children by comparing information provided by a person making an inquiry against program eligibility requirements and the published description of homes needed for children in the months prior to the beginning of the next screening process.

(18) "Special needs child" means a child legally free for adoption and waiting for an adoptive placement who meets the criteria of s. HFS 50.03 (1) (b).

(19) "Unit supervisor" means the supervisor of the adoption staff in a region of the division.

History: Cr. Register, December, 1995, No. 480, eff. 1-1-96; am. (7), (9), (10) and (19), Register, May, 1999, No. 521, eff. 6-1-99.

HFS 51.04 Need for adoptive family resources.

(1) DETERMINATION OF NEED FOR ADOPTIVE FAMILY RESOURCES.. At least 3 times in each calendar year the department shall determine the types of homes expected to be needed for placement of special needs children, and the number of each type of home needed. The types of homes needed shall be determined by examining children registered with the adoption information exchange and children expected to be freed for adoption and needing placement prior to the next screening. Types of homes needed may include but are not limited to homes where the applicant prefers a child of a particular age or sex, homes for sibling groups and homes that will take children with emotional, behavioral or physical problems and needs. The department shall determine the number of homes of each type needed by comparing the numbers of needed homes of each type with adoptive families already studied by the department and available for placement. The department may set the numbers of needed homes higher in any category or may admit additional families to compensate for unexpected intake of children or for applicants who are not approved or drop out of the process for any reason. The department may limit the total number of adoptive families selected in any region or other geographic area of the state.

(2) ANNOUNCEMENT OF NEEDED ADOPTIVE FAMILY RESOURCES.. After the department under sub. (1) determines the need for adoptive family resources, the department shall publicize a description of the number and type of adoptive homes needed and information on the screening process by doing the following:

- (a) Prominently displaying a description of the special needs adoption program at each location the department operates.
- (b) Publishing the information at regular intervals in adoption exchange publications.
- (c) Providing updated information regarding needed adoptive family resources to persons and agencies requesting information about adoption of special needs children.

History: Cr. Register, December, 1995, No. 480, eff. 1-1-96.

HFS 51.05 Information for inquirers. (1) WRITTEN INFORMATION. The department shall provide to each person who makes an inquiry written information describing the special needs adoption program, the number and type of adoptive homes currently needed and the times and places of upcoming informational meetings.

(2) REGIONAL INFORMATIONAL MEETINGS. The department shall conduct at least one group informational meeting in each region following the announcement of needed adoptive family resources under s. HFS 51.04 (2). The department may hold additional group informational meetings or may meet individually with inquiring families prior to the date of screening. At the group meetings or individual meetings the department shall provide information regarding adoption procedures, the screening process and the number and type of adoptive homes currently needed.

(3) REQUIRED ATTENDANCE.. All persons desiring to proceed to the screening and application process shall attend either a group or individual informational meeting. Attendance is recommended, but not required, for persons who attended a department informational meeting within the past 2 years. Group informational meetings shall be held at handicapped-accessible sites and all letters and notices for the group meetings shall describe how

special accommodations can be arranged. Persons invited to either an individual or group informational meeting but failing to respond or attend after 2 notices shall be dropped from the department's inquiry list.

(4) SCREENING.. (a) The department shall provide a screening form to each person who attends a group or individual informational meeting and desires to continue with the screening process. The form shall enable persons to document their eligibility under s. HFS 51.07 (8) for the program and to specify special need categories for which they wish to be considered. The department shall not continue the screening process for persons declining to complete a screening form or to persons provided a screening form who do not complete and return the form prior to the published date of screening. The written information provided with the screening form shall indicate the date and place the screening forms are due. All communications regarding the form or requests for additional information shall include instructions for persons needing assistance to complete the form.

(b) The department shall document the date the screening information is received with all required information provided.

(c) The department may obtain additional information needed to make a screening decision by requesting additional written information or by conducting a screening interview.

(d) The information supplied by the person and provided to the department under pars. (a) and (c) shall be reviewed by the department according to the following criteria:

- 1. That the person meets a need for adoptive family resources determined in s. HFS 51.04 (1).
- 2. That the person is likely to meet eligibility criteria in s. HFS 51.07 (8).
- 3. That when inquiries exceed the need for adoptive family resources determined in s. HFS 51.04 (1), preference is given to inquiries from persons who demonstrate greater interest and experience with multiple types of special needs.

(e) If the department determines that the person making the inquiry does not meet the screening criteria in par. (d) or the need for adoptive family resources determined in s. HFS 51.04 (1) has been met, the department shall notify the person making the inquiry within 30 days of the date the screening form was due of the reasons why the department has determined that the person does not meet screening criteria.

(f) If the department determines that a person making an inquiry meets the screening criteria in par. (d), the department shall notify the inquirer in writing within 30 days of the date the screening form was due and provide the inquirer with a formal application form and instructions for completing it.

(g) Persons interested in adopting a special needs child already in their home who is legally free for adoption are exempt from attending informational meetings and from screening requirements. Those persons may request and shall be provided with an application form from the department's regional office responsible for service to the child at any time after the department becomes the guardian of the child.

(h) An adult relative of a child needing adoptive placement, including a sibling, aunt, uncle or grandparent, may request an application for a home study and is exempt from attending informational meetings and from screening requirements.

(i) The bureau director or a designee may authorize a home study of a family other than a applicant selected in par. (d), (g) or (h) only if there is documented evidence that the action is necessary to ensure that an adoptive home is made available on a timely basis for a special needs child awaiting placement for whom no studied family or family screened and in the process of home study is known as an appropriate resource.

History: Cr. Register, December, 1995, No. 480, eff. 1-1-96.

HFS 51.06 Home study application. (1) The department shall provide a home study application form to persons whom the department has determined meet the screening requirements under s. HFS 51.05 (4) (d) or persons described in s. HFS 51.05 (4) (g) or (h). The application form shall be used to request a home study, to describe social, educational and financial details about family members and to certify that all application information is true. Completed application forms shall be accepted from persons the department has determined meet screening requirements under s. HFS 51.05 (4) (d) and persons described in s. HFS 51.05 (4) (g), (h) and (i).

(2) If the department receives an incomplete home study application form, the form shall be returned to the inquirer for completion. The application date is the date the form is received by the department with complete information. The department may close the application process to any person who has been provided with an application form if the form has not been returned within 60 days after the date of mailing.

(3) If the applicant is aware of a potential conflict of interest between the applicant and the department's regional office handling the application, the applicant may request, and the department shall arrange for, the application to be processed by another regional office. If the department is aware of a potential conflict of interest between the applicant and the regional office that would normally handle the application, the department shall arrange for the application to be processed by another regional office. If the applicant is an employee of the division, the home study shall be conducted by another public agency authorized to perform adoptions or the applicant may request service from a licensed adoption agency and request reimbursement of eligible expenses under s. HFS 50.05 (3).

History: Cr. Register, December, 1995, No. 480, eff. 1-1-96.

HFS 51.07 Home study. (1) **PURPOSE AND PROCESS.** The purpose of the home study is to determine the applicant's motivation, resources, readiness and ability to parent a special needs child, to assess the relative risk of maltreatment of special needs children, and to assess the availability of supportive resources within the family and the community. The process includes assessing information provided on the application form and information obtained from other documents, contacts with references and other collateral contacts and interviews with applicant family members. The home study may include:

- (a) An assessment using an adoptive family assessment process which covers at least the criteria in sub. (8).
- (b) Verbal or written statements from at least 3 references provided by the family in addition to the family's physician.
- (c) Verification of financial information, employment, previous foster care or adoptive parent status.
- (d) Verification of birth, marriage, divorce and naturalization.
- (e) A check of police records and department of justice criminal records in accordance with s. HSS 56.04 (4m).
- (f) Individual or group interviews.

(2) **TIME PERIOD.** The department shall complete a home study within 6 months after receiving a complete application unless the applicant requests more time or the study is placed on hold for good reason as determined by the department.

(3) **DECISION TO CLOSE APPLICATION.** (a) Home study of an applicant may cease and the home study application may be closed at any time during the home study process if the department determines any of the following:

- 1. That the applicant does not meet eligibility requirements of this chapter or foster home requirements of ch. HSS 56.
- 2. That the applicant provided false information to the department.

3. That the final determination on the adoptive family assessment is unacceptable.

4. That the applicant no longer desires to adopt a special needs child or applies to adopt through another agency.

(b) A decision to close an application during home study shall be made by a team which includes, at a minimum, the social worker and the unit supervisor. Any decision to close an application shall be made in writing to the applicant and shall include reasons for the closing and information about the right to appeal that decision under s. HFS 51.09.

(c) The department shall close an application when the applicant awaiting a home study moves out of state. The department shall close the case of an approved applicant who moves out of state before a child is placed. Upon written request of the approved applicant and an adoptive agency in the other state, and within a 2 year interval between closing and the request, the department shall furnish a copy of the completed study to the adoption agency in that other state.

(4) **SUSPENSION OF HOME STUDY.** Home study of an applicant may be suspended and the application placed on hold at any time the department determines that the applicant temporarily fails to meet the eligibility criteria under sub. (8) or is not ready to proceed with the study or placement but there is a likelihood that the reasons for suspending the home study may be remedied within 6 months. The department shall notify an applicant in writing of a decision to place the home study on hold, along with the reasons for the decision and the conditions under which the home study may be resumed. If the reason for placing a home study on hold is resolved within 6 months after placing the home study on hold, the department shall resume the home study. If the reason for placing the home study on hold is not resolved within 6 months after placing the home study on hold, the department shall notify the applicant in writing that the home study application is closed.

(5) **NOTIFICATION OF RESULTS.** Applicants shall be notified in writing of the results of the home study assessment process. The department shall notify an applicant who does not meet the eligibility criteria under sub. (8) of the reasons the applicant is not approved for placement. An applicant who meets the eligibility criteria in sub. (8) shall be notified of that finding, including recommendations about the number and type of children that will be considered for placement, but that a positive home study assessment does not guarantee placement of a child.

(6) **UPDATING.** An applicant approved and waiting for placement shall be contacted at least twice annually by the department for updating of information about the applicant. Updated information shall be added to the home study record at least annually.

(7) **NOTIFICATION OF CHANGED CIRCUMSTANCES.** Applicants shall notify the department immediately of any change in their circumstances such as arrests or convictions, death, separation, divorce, foster care or adoptive placements or significant changes in health, income or child care arrangements. Applicants approved for placement and licensed as foster parents shall also comply with the notification requirements of s. HSS 56.04 (1) (b) 4. and 5. The department shall consider the updated information and may revise the home study findings. Applicants shall be notified in writing of any change in home study findings and the reasons for the change.

(8) **ELIGIBILITY CRITERIA.** The department shall use the following criteria in making a home study and in determining whether to approve an applicant for placement of a special needs child:

(a) *Foster home licensing rules.* The applicant shall meet the requirements of ch. HSS 56. An exception to a requirement in ch.

HSS 56 requires the approval of the bureau director or that person's designee.

(b) *Financial.* The applicant shall provide documentation that the applicant's income is sufficient to meet the applicant's family obligations without reliance on adoption assistance payments received for the care of children placed for adoption, and reasonable assurance of provision for meeting future needs following adoption.

(c) *Health.* The applicant shall complete a health examination form provided by the department to meet the requirements of s. HSS 56.04 (4) and to verify that the health of the applicant is such that he or she is physically able to parent a special needs child and that there is reasonable assurance that the applicant is physically, mentally and emotionally able to raise a child to 18 years of age. Upon request, the applicant shall authorize release of information to the department concerning results of any medical or mental health evaluation or treatment or any assessment or treatment for alcohol or other drug abuse. The department may require a second medical opinion or a psychological or personality test of the applicant or other family member at the department's expense.

(d) *Family functioning.* The department shall gather family and child information during the home study process and document this information in a family assessment. An applicant demonstrating significant risk to children does not meet eligibility criteria. The assessment shall consider at least the following information: functioning of children in the home; vulnerability of children in the home; how an applicant views the applicant's children; an applicant's level of functioning; social, educational and health history of family members; parenting practices and philosophy; interpersonal relationships; demographic factors; family member roles and communications; extended family considerations; an applicant's views about maltreatment; an applicant's views about adoptable children; an applicant's views about birth parents; preparation of all family members for adoption; an applicant's motivation and commitment; resources available within the family; and external or community resources.

(e) *Marital status.* Applications shall be accepted from:

1. Adult married couples, living together, who are residents of Wisconsin and married for at least one year on the date of application.

2. Single adult Wisconsin residents.

History: Cr. Register, December, 1995, No. 480, eff. 1-1-96.

HFS 51.08 Placement. (1) A team which includes the child's social worker, the applicant's social worker and a unit supervisor shall make all decisions to place a child with an applicant approved for placement.

(2) The team shall attempt to place siblings together unless it is determined not to be in the best interests of the children.

(3) Social workers with responsibility for placement of children shall seek out studied and approved homes by regularly checking listings of approved homes, by requesting and reading home study assessments, and by consulting with the staff who conducted the home study. Social workers may contact approved

applicants to obtain additional information and to discuss the needs of a particular child needing adoptive placement.

(4) A applicant studied and approved for adoption by the department or another adoption agency may contact a department social worker to request additional information about a child registered with the adoption information exchange or to indicate the family's interest in adopting a particular child. The social worker may request the approved applicant to authorize in writing the release of a home study assessment, including any updates to the home study assessment, to the department.

(5) Pregnancy of an applicant after a child is placed for adoption and before the adoption becomes final in court is not sufficient reason for the department to remove the child placed for adoption unless requested by the applicant.

(6) After placement of a child but before the adoption is final the department may remove the child from the home if the department determines that it is in the best interests of the child or there is reason to be concerned about the safety of the child.

(7) Persons shall complete the legal adoption of a child placed with them before they may request a screening for a subsequent adoption.

History: Cr. Register, December, 1995, No. 480, eff. 1-1-96.

HFS 51.09 Appeals. (1) Inquirers who are screened out by the department or applicants who are placed on hold or whose home study is terminated or for whom a negative home study assessment is made by the department shall be notified in writing of the reason for that determination and of the opportunity to appeal that decision.

(2) (a) A person under sub. (1) desiring to appeal a decision of the department regarding a screening or an application may, within 30 days after the date of that notice, do one of the following:

1. Request a review by the chief of the division's unit which conducted the screening or home study.

2. Request a review by the bureau director.

Note: To request a review by the unit chief or bureau director, write:

Director
Bureau of Programs and Policies
P.O. Box 8916
Madison, WI 53708-8916

(b) If the inquirer or applicant requesting the review under par. (a) 1. or 2. is not satisfied with the finding of the review, he or she may request in writing a review by the division administrator. A finding by the division administrator is final.

Note: To request a review by the division administrator, write:

Administrator
Division of Children and Family Services
P.O. Box 8916
Madison, WI 53708-8916

(c) A review under par. (a) or (b) shall be completed and the finding communicated in writing to the person requesting the review within 30 days after the request for review is received by the department.

History: Cr. Register, December, 1995, No. 480, eff. 1-1-96.